

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

THE BANK OF NEW YORK MELLON AS
TRUSTEE FOR THE BENEFIT OF THE
CERTIFICATE HOLDERS OF THE CWABS,
INC., ASSET-BACKED CERTIFICATES,
SERIES 2007-SD1 FKA THE BANK OF NEW
YORK,

Plaintiff,

v.

KAREN D. SMITH, an individual; and all other
persons, parties, or occupants unknown
claiming any legal or equitable right, title,
estate, lien, or interest in the real property
described in the complaint herein, adverse to
Plaintiff's title, or any cloud on Plaintiff's title
to the Property, collectively designated as
DOES 1 through 50, inclusive,

Defendant.

Case No.: 2:18-cv-00764-TSZ

DECLARATION OF CHRISTINA HENRY
IN SUPPORT OF MOTION FOR
ATTORNEYS' FEES

I, Christina Henry, declare as follows:

I am one of the attorneys of record for the Defendant herein. I have personal knowledge
of the facts as stated herein and if called upon to testify to the truth thereof, I could and would do
so.

I am admitted to practice before the Supreme Court of the State of Washington and
before the United States District Courts for the Western and Eastern Districts of Washington. I

1 also practice in the United States Bankruptcy Court. I have been in active private practice since
2 June 21, 2001.

3 I earned a Bachelor's degree in Asian Studies at Dartmouth College in Hanover, New
4 Hampshire and my juris doctorate from Boston College Law School.

5 My practice primarily involves plaintiff's civil litigation in the areas of mortgage loan
6 servicing, violations of the consumer protection act and the fair debt collections practices act,
7 discrimination under the Americans with Disabilities Act and bankruptcy.

8 Since becoming an attorney, I have been the lead or co-counsel 38 federal district court
9 cases, 11 court of appeals cases, 1 bankruptcy appellate panel case, 636 bankruptcy cases and
10 approximately 15 state court cases. Some cases of note include:

11 *Wong v. Seattle School District No. 1*, No. 16-cv-01774-RAJ, (W.D. Wash) – presently
12 in litigation and completed trial testimony regarding discrimination for a nine-year old
13 boy with autism under the American with Disabilities Act and Section 504 of the
14 Rehabilitation Act.

15
16 *Ocwen Loan Servicing, LLC v. Christopher Marino, et al*, No. 18-60040, 18-60041 (9th
17 Circuit Court of Appeals) – presently litigating appeal regarding attorney's fees for an
18 appeal of a violation of a discharge injunction.

19
20 *Ocwen Loan Servicing, LLC v. Christopher Marino, et al*, No. 18-60005, 18-60006 (9th
21 Circuit Court of Appeals) – presenting litigating appeal regarding a violation of the
22 discharge injunction where a client obtained significant emotional distress damages for
23 mortgage servicing violations on a loan that had already been discharged in bankruptcy.

1 *Demetrius Bertrand Dickerson, Sr.*, 12-11284-MLB (Bankr. W.D. Wash) -presently litigation a
2 violation of the discharge injunction against Merchants Credit Corporation for compensatory
3 damages and punitive damages.

4 *Hoffman et. al, v. Transworld Systems Inc., et. al*, 18-01132, (W.D. Wash) - presently in
5 litigation against debt collectors who are collecting on private student loans for FDCPA
6 and WCPA violations.

7
8 *Plascencia et al v. Collins Asset Group, LLC et al*, No. 17-01505-MJP, (W.D. Wash.) –
9 presently in litigation against a debt buyer regarding a unsecured former second mortgage
10 that is beyond the statute of limitations for FDCPA and WCPA violation.

11
12 *Zazueta v. Nationstar Mortgage, LLC*, No. 16-05893-RJB, 2017 WL 746820 (W.D.
13 Wash., Jan. 9, 2017). A mortgage servicing litigation case that was removed and
14 remanded to state court.

15
16 *Goudelock v. Sixty-01 Association of Apartment Owners*, 895 F.3d 633 (9th Cir. 2018). A
17 case to the Ninth Circuit regarding the dischargeability of homeowner's dues in bankruptcy. Currently
18 pending review for Writ of Certiorari by the U.S. Supreme Court.

19
20 *Gray v. ZB, N.A.*, 567 B.R. 841 (Bankr. W.D. Wash. May 12, 2017).

21 *Thomas v. Flagstar Bank, N.A. and Green Tree Servicing, LLC*, 2018 WL 1470836
22 (W.D. Wash. Mar. 26, 2018).

23
24 *Stafford v. Navient Solutions, Inc., et. al.*, No. 14-01458, (Bankr. WA.W.D. Nov. 5,
25 2015). Litigated a student loan discharge violation case regarding private student loan for
26

1 a couple that owed over \$800,000 combined for a photography degree from Brooks
2 Institute in California.

3
4 *In re Schwartz-Tallard*, 803 F.3d 1095 (9th Cir 2015). Co-counsel for the National
5 Association of Consumer Bankruptcy Attorneys (NACBA) at the rehearing stage in a
6 major case regarding attorney's fees under the Bankruptcy Code. Co-authored amicus
7 brief for the *en banc* Court. In adopting our position, the Court agreed to overrule one of
8 its past decisions, eliminate a circuit split, and provide relief affecting thousands of
9 debtors in the Ninth Circuit.

10
11
12 *In re Snowden*, 769 F.3d 651 (9th Cir. 2014). Ninth Circuit affirmed \$12,000 emotional
13 distress and \$12,000 punitive damages award for a payday loan of \$550, presented in
14 violation of the bankruptcy automatic stay. Case also distinguished *Sternberg v. Johnston*
15 and allowed attorney fees to establish automatic stay violation.

16
17
18 *Khachatourians v. Bishop White Marshall and Weibel, PS, et al*, No. 12-01528-JCC,
19 (W.D. Wash. November 15, 2012). Litigation against a debt buyer law firm

20 My hourly rate is \$325 an hour.

21
22
23 Included herein is a true and correct copy of time log for the services of Henry &
24 DeGraaff, P.S. in the Smith matter totaling attorney fees in the amount of \$14,267.50 and filing
25 fee expenses of \$400.00 for a total of \$14,667.50.

1 I declare under penalty of perjury under the laws of the State of Washington and the
2 United States that the foregoing is true and correct to the best of my knowledge.

3 Executed this 31st day of October 2018, at Seattle, Washington.

4
5 /s/ Christina L. Henry
6 Christina L. Henry, WSBA #
7 150 Nickerson St., Suite 311
8 Seattle, WA 98109
9 206-330-0595 Tel
10 206-400-7609 Fax
11 *chenry@hdm-legal.com*
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INVOICE

Karen Smith

Invoice # 1620

Invoice Date: Wed, October 31, 2018

Re: Smith, Karen

Current Charges:

Fees

Date	Init.	Description	Hours	Amount
8/7/2017	CH	Sent final version of motion to dismiss to K Smith and discussed its contents.	0.3	97.50
4/29/2018	CH	Review documents sent by K. Smith regarding judicial foreclosure.	0.5	162.50
5/16/2018	CH	Review pleadings from K. Smith's 2015 state law case previously filed for quiet title for tolling events and confirmation of dismissal without prejudice.	1.8	585.00
5/16/2018	CH	Research re issues in the K. Smith foreclosure, the effect of her BK on the case, tolling and other issues regarding the judicial foreclosure (0.5); Draft notice of appearance in foreclosure case (0.3); sent email communication with attorney for Plaintiff re judicial foreclosure appearance (0.1); further review of documents in the file (1.2).	2.1	682.50
5/17/2018	CH	Review email from N. Smith from Malcolm Cisneros regarding extension for filing answer in the case.	0.1	32.50
5/27/2018	CH	Review rules for removal of case to federal case (0.6); Draft Notice of removal and associated documents (0.6); Telephone call to client regarding need for declaration (0.1).	1.3	422.50
5/28/2018	CH	Sent notice of removal and attached documents filed in WA state Dist court to opposing counsel.	0.1	32.50
5/28/2018	CH	Draft and filed praecipe re notice of removal.	0.5	162.50
5/28/2018	CH	Sent notice of removal to K Smith for signature (0.5); Received signed notice of removal from client and finalized documents for removal, and filed them in federal court and state court (1.0).	1.5	487.50
5/29/2018	CH	Reviewed letter from court re removal instructions.	0.4	130.00
6/6/2018	CH	Sent via email - records from state	0.1	32.50

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		court proceeding for verification on removal to opposing counsel, N. Smith		
6/7/2018	CH	Retrieve state court records, prepare and file verification of records with the federal court.	0.3	97.50
6/12/2018	CH	Discussion with K. Smith regarding circumstances of mediation denial (0.4); Reviewed denial letter for standard modification from Shellpoint Mtg on behalf of BONY as Trustee indicating that the investors had no contractual authority to modify the loan as of 7/19/2017 (0.4).	0.8	260.00
6/15/2018	CH	Discussion with K Smith re legal basis for dismissing the case and sent the Jarvis decision for her review.	0.5	162.50
7/8/2018	CH	Review article re statute of repose.	0.3	97.50
7/8/2018	CH	Research regarding statute of limitations, and statute of repose under the UCC (3.5) (Write down to 1.2)	1.2	390.00
7/18/2018	CH	Sent email to opposing counsel requesting dates for a Rule 26(f) discovery conference re joint status report.	0.1	32.50
7/28/2018	CH	Research issues regarding statute of limitations for judicial foreclosure and recent caselaw since Jarvis.	1.3	422.50
7/29/2018	CH	Drafting Motion to Dismiss complaint.	1.0	325.00
7/30/2018	CH	Held Rule 26(f) re joint status conference with opposing counsel.	0.6	195.00
8/6/2018	CH	Reviewed edits from Omar Barraza re motion to dismiss.	0.5	162.50
8/6/2018	CH	Research regarding motion to dismiss re potential for amendment of complaint.	1.3	422.50
8/6/2018	CH	Email exchange with opposing counsel re scheduling for the CR 26(f) joint status conference.	0.2	65.00
8/7/2018	CH	Sent email to client re motion to dismiss that was ready for filing and final review.	0.2	65.00
8/7/2018	CH	Continue drafting and finalize motion to dismiss and proposed order (0.4); Draft Request for Judicial Notice with exhibits - finalize and file (0.8).	1.2	390.00
8/10/2018	CH	Draft joint status report and send to opposing counsel.	1.5	487.50
8/13/2018	CH	Discussed edits to the joint status conference with opposing counsel, received signature approval.	0.5	162.50

8/13/2018	CH	Discussion with opposing counsel re extension of deadline for initial disclosures and agreement to call the court to request.	0.3	97.50
8/20/2018	CH	Draft initial disclosures, finalized and sent to opposing counsel.	1.1	357.50
8/23/2018	CH	Email correspondence with client re response due date of Monday August 27, 2018	0.1	32.50
8/24/2018	CH	Review response to motion to dismiss and judicial notice.	1.5	487.50
8/26/2018	CH	Sent filed response for motion to dismiss and request for judicial notice to K Smith for her review.	0.1	32.50
8/28/2018	CH	Research case law re issues for tolling re reply.	6.0	1,950.00
8/29/2018	CH	Initiate draft of reply brief.	2.2	715.00
8/30/2018	CH	Continue drafting reply brief.	5.2	1,690.00
8/31/2018	CH	Continue drafting reply brief, review edits from co-counsel, finalize and file.	6.3	2,047.50
10/17/2018	CH	Reviewed order on motion to dismiss and sent to client.	0.6	195.00
10/18/2018	CH	Discussions with K. Smith re order on dismissal and its significance.	0.3	97.50
Fees for Services Rendered			43.9	\$14,267.50

Expenses

Date	Description	Amount
5/28/2018	filing fee	400.00
Total Fees & Expenses		\$14,667.50

Total New Charges

\$14,667.50

Account Statement:

Balance as of Last Invoice	0.00
Current Charges	14,667.50
Amount Due and Owing to Date	\$14,667.50

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CHRISTINA HENRY

Bothell, WA | 206.550.1235 | chenry@hdm-legal.com

EXECUTIVE SUMMARY

- **Law Firm Experience:** 10+ years of experience as a practicing attorney in law firm environments.
- **Client Advocacy:** 10+ years of experience advocating and defending the rights of clients in bankruptcy and consumer litigation. Represented dozens of clients across career.
- **Litigation Success:** Litigated multiple cases throughout career with a solid win rate. Helped dozens of clients manage the stress associated with litigation.
- **Legislative Advocacy:** Notable track record of advocacy for students and consumers at state level. Involved in advocacy work affecting approx. 10 house bills and senate bills throughout career. Proven track record of developing/influencing legislation critical in removing litigation obstacles as well as protecting consumers from abusive behavior by debt collectors.
- **Supervising, Mentoring, & Coaching:** Personally mentored 4+ new attorneys and law school students across career. Directly supervised, managed, and trained approx. 10 paralegal staff throughout career. Managed salary and employee review process along with training programs.
- **Interpersonal Skills:** Supervisors, colleagues, and clients note key skills such as strong communication skills, good attention to detail, excellent organizational and project management skills, leadership, interpreting statutes/laws/caselaw, being flexible, innovative, friendly, excellent writing skills, professionalism, motivated, and the ability to collaborate effectively.

PROFESSIONAL EXPERIENCE

Attorney & Founder

September 2012 – Present

Henry & DeGraaff, PS

Seattle, WA

- **Consumer Law Advocacy & Consumer Law Litigation:** Represented consumers and debtors in litigation proceedings involving diverse consumer issues in state and federal courts. Focused on cases involving consumer protection statutes under the Consumer Protection Act, the Fair Credit Reporting Act, the Consumer Loan Act, and the Bankruptcy Code..
 - ✓ Achieved significant settlements against medical debt buyers for improperly targeting charity-care-eligible consumers for improperly charging interest on medical debt, for wrongfully collecting on debts not owed, and for misleading collection tactics.
 - ✓ Successfully briefed and argued significant Ninth Circuit Court of Appeals cases, including bankruptcy, attorney's fees, federal preemption, and damages claims for emotional distress and punitive damages. Recent case before the Ninth Circuit regarding treatment of homeowner's dues in bankruptcy successfully overturned bankruptcy court and district court decision.
 - ✓ Currently litigating several cases against mortgage servicers and beneficiaries in state and federal court.
- **Student Loan Litigation:** Proven track record of expertise in researching, advocating, and litigating student loan issues in a variety of contexts.
 - ✓ Currently defending a number of clients in suits brought by the National Collegiate Student Loan Trust (NCSLT), a well-known "robo-signing" student loan creditor. Recently obtained two Summary Judgment rulings in King County Superior Court finding that NCSLT's securitization documents were inadmissible hearsay (No. 15-2-18048-7, July 20, 2016; No. 14-3-30722-5, July 12, 2016).
 - ✓ *Stafford v. Navient Solutions, Inc., et. al.*, No. 14-01458, (Bankr. WAWD Nov. 5, 2015). Litigated student loan discharge case for couple with \$550K + in private student loan debt for attendance at Brooks Institute of Photography, a for-profit school that is now closed. After discovery and a summary judgment hearing, settled with their private student loan lenders to discharge \$482K in private student loan debt, and arranging a 20-year payment plan for the remaining \$68K.

- **Transactional Experience & Contract Strategy:** Managing complex caseload consisting of approx. 50% transactional work including bankruptcy filings, contract drafting, contract negotiations, contract modifications, and workout agreements.
- **Successful Negotiations:** Assisted high income individual with significant commercial building investment worth several million dollars, restructured debt, modified commercial loan to reduce interest rate and extend terms. Used bankruptcy as leverage to eliminate second mortgage and settle to severely delinquent utility liens. Saved several small businesses from liquidation through strategic negotiation and settlement of debts.
- **Receivership:** Traced assets, managed litigation to secure payment from bankruptcy shareholder, and organized asset sales to equitably wound down local cabulance company.
- **Firm Strategy & Communication:** Prepare/present briefings and case strategy in clear, concise, logical, and objective manner (both orally and in writing) to colleagues, judges, and clients. Recognized as proficient in summarizing and clearly articulating and analyzing issues, cases, and reasonable alternatives to litigation.
- **Political Advocacy & Leadership:** Collaborated with members of the Washington State Attorney General's Office, non-profit legal organizations, and Washington State Legislators regarding student loan bills and consumer protection bills for 2017 legislative session. Recognized by colleagues for subject matter expertise in developing legislation critical to removing litigation obstacles as well as protecting consumers from abusive behavior by debt collectors in 2013-2017 legislative sessions.

Principal/Attorney
Seattle Debt Law, LLC

April 2006 – September 2012
Seattle, WA

- **Advocacy (Primarily Bankruptcy & Consumer Protection):** Served as principal in a firm focused on chapters 7 and 13 consumer bankruptcy representation and additional practices in Fair Credit Reporting Act litigation (FCRA), Fair Debt Collection Practices Act (FDCPA) litigation and debt negotiation.
- **Client Representation:** Represented dozens of clients across 6-year span. 90%+ of bankruptcy clients resulted in obtaining discharge in chapter 7 and chapter 13 cases.
- **Supervising, Managing, & Mentoring:** Supervised a staff of 5 employees (including associate attorneys). Ensured/provided health insurance benefits. Managed payroll. Tracked hours and pay for staff.
- **Business Management:** Managed core business environment for the benefit of all staff and clients.

Associate Attorney
Crocker Law Group, PLLC

April 2004 – February 2006
Seattle, WA

- **General Legal Strategy:** Represented clients in consumer and business in chapter 7, 11, and 13 cases. Conducted legal research. Drafted various legal documents (including motions, pleadings, and correspondence). Met with dozens of clients to explain and determine legal strategy.

Associate Attorney
RCO Legal, P.S.

September 2002 – March 2004
Bellevue, WA

- **Firm & Practice Management:** Directed and oversaw all facets of the Washington State bankruptcy practice with focus on representing residential mortgage creditors for bankruptcy matters.
- **Personnel Training & Supervision:** Supervised, managed, and trained approx. 6 paralegal staff.
- **General Legal Strategy:** Processed a volume caseload and regularly worked with corporate clients for direction and negotiation of legal matters.
- **Litigation Management:** Managed heavy litigation that required court appearances in all bankruptcy courtrooms in Washington state on a weekly basis. Averaged at least 2 weekly court appearances.

Law Clerk

September 2000 – August 2002

The Honorable Whitney Rimel, U.S. Bankruptcy Court for the East. Dist. of CA Fresno, CA

- **General Legal Support/Research:** Drafted court opinions, researched relevant bankruptcy laws, suggested rulings regarding law and motions calendars, and reviewed chapters 7, 11, and 13 pleadings and bankruptcy petitions.

EDUCATION

RECENT CLE AUTHORSHIP & PRESENTATIONS

- **Rights and Remedies for Federal and Private Student Loan Debt & Bankruptcy 101.** The Northwest Consumer Law Center. Presentation March 7, 2017.
 - **Discharging Student Loans in Bankruptcy.** King County Bar Association. Presentation October 2016.
 - **Student Loan Repayment and Management of Other Consumer Debt.** Washington State Bar Association (WSBA). Presented August 2016. Developed presentation for approx. 250 attendees.
-

LANGUAGES

- Proficient in Mandarin Chinese (both speaking and writing).
-

CORE COMPETENCIES & SKILLS

Bankruptcy Litigation
Business Administration
Policy Analysis
Commercial Litigation
Statutory Interpretation
Confidentiality Agreements

Debtors' Rights
Customer Service
Leadership
Legal Research & Writing

Negotiation

Problem Solving
Public Speaking
Qualitative & Quantitative Analysis
Transactional Legal Matters